

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR MONDAY, OCTOBER 12, 1998

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 2 p.m. on Monday, October 12. I further ask unanimous consent that the time for the two leaders be reserved.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I further ask unanimous consent that there then be a period for the transaction of morning business until 3 p.m.—that will be on Monday—with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, we will come in at 2 p.m., unless there is some need to change it on Monday. We will be in a period for morning business until 3 p.m., and the Senate will then proceed to any legislative or Executive Calendar items that may be cleared for action, and particularly when we do get to the final day, it is my hope and my expectation that some conference reports or some bills that may be available can be cleared for action. I know there is a possibility of that being available, and also nominations still continue to be a possibility, although all of that depends on how the negotiations go. We can't be tied up trying to work through nominations and conference reports while also being involved in negotiations on the omnibus bill. Senators will be advised of the voting situation as long as possible, hopefully 24 hours in advance of any recorded vote.

EDUCATION

Mr. LOTT. Mr. President, let me just say briefly, Mr. President, on the education issue, it is very difficult to deal with these negotiations fairly and honestly and productively when you have the President and the Democratic leadership coming out and bashing negotiators on issues like education. It also makes it difficult, when you have that happen, to be able to work with people with whom you disagree philosophically, although you try to work in good faith, but also it begins to diminish respect and trust.

That is one of the biggest problems we have right now. It is so difficult to maintain a sufficient level of trust to be able to get your work done. I think most people who know me—Senators on both sides of the aisle—know that is very important to me. I strive to be trustworthy myself and to keep my

word, and I find it very hard to work with people who I don't have that same feeling about.

When it comes to education, I will stand aside to nobody, especially a bunch of people who went to private schools and then holler and scream about what ought to happen in public schools. I went to public schools from the first grade right through college. I went to Duck Hill Elementary and Grenada Elementary and Pascagoula Junior High School. My wife went to public schools. My children went to public schools.

I believe and care about education and public schools. I worked for the University of Mississippi. My mother was a former schoolteacher. She taught school for 19 years.

For the President to get up down there and demagog this issue about how he is not getting his principles in education is very hard for me to accept, Mr. President. What he wants is a Federal education program. He wants it dictated from Washington. He wants it run by Washington bureaucrats, and he wants it his way.

I don't have faith in Washington bureaucrats. When the money comes to Washington and it trickles down through the Atlanta bureaucracy and trickles down to the Jackson bureaucracy, by the time it gets to the teachers and the kids, half of it is gone. And they are told, you must spend it this way or that way, when it may not be the way it is needed.

I have faith in local school administrators, local teachers, parents, and, yes, the children, to make the decisions about what is needed for reading, what is needed in remedial math, what is needed to fight the drug problem. And so that is the basic difference for the American people. I ask you, who do you trust on education? The local officials, the local school officials, the parents, or Washington bureaucrats? That is the choice.

President Clinton and his bureaucrats, the liberals in Washington, they want to run education and manipulate education from Washington, DC. The Republicans say we should return the money to the local level. If the schools want to use it for reading, fine. If they want to use it for extra teachers, great. If they want to use it for more school construction, that is their choice. If they want to use it for a drug-free school program, great; do that.

That is the difference. Who do you trust? Local officials or national officials? Who do you trust on education? The son of a schoolteacher and people who went to public education, or pampered people who went to private schools and then stand on their mounts and look down their noses and tell us what ought to happen in public education?

I have about had it on this issue, and I am sending a warning to the President of the United States: I am not going to tolerate a whole lot more demagoguery on this subject.

Mr. THURMOND addressed the Chair. The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to commend the able majority leader for his remarks on just what he said. Are the local people going to control education or the people in Washington going to control it? I am in thorough, thorough agreement with the able majority leader in what he has had to say.

ORDER FOR RECESS

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I ask the Senate stand in recess under the previous order.

I withhold that for one second.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

(The remarks of Mr. CHAFEE pertaining to the introduction of S. 2617 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I ask the Senate stand in recess under the previous order.

The PRESIDING OFFICER. The question is on the motion.

All those in favor—

Mr. DORGAN. I object.

The PRESIDING OFFICER. This is not a unanimous consent.

The question is on the motion.

Mr. DORGAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I rise to speak in morning business.

The PRESIDING OFFICER. If the Senator from Tennessee would suspend, there is a motion to recess pending.

Mr. LOTT. Mr. President, I ask unanimous consent to withdraw the motion to recess.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee.

REGARDING THE
MEDICARE+CHOICE PROGRAM

Mr. FRIST. Mr. President, the Medicare+Choice program was created as part of the Balanced Budget Act of 1997 to provide Medicare beneficiaries with high quality, cost effective options, in addition to the continuing option of traditional fee-for-service Medicare. When fully implemented, Medicare+Choice will provide seniors with one stop shopping for health care; including hospital and physician coverage, prescription drugs, and even preventive benefits, at a savings.

This change in Medicare is monumental. It is dramatic. And it is essential to preserving and strengthening Medicare for our seniors and individuals with disabilities. This change breeds challenges—some that can be predicted but many which cannot. The potential for these challenges to hurt and harm is very real. The senior, so relieved to finally find a health plan that covers the cost of his prescription drugs because of Medicare+Choice, hears this week that he might not have that plan—or that coverage next year. Who to call? What to do? We as a government must respond. This Administration must move decisively to respond and to mend flaws in the system.

We on the National Bipartisan Commission on the Future of Medicare are working hard to address ways to strengthen the security provided by Medicare. And the red flags raised by the announcements this week underscore the importance of this work. No longer can we be satisfied with an outdated, 30 year old bureaucracy as the best way to care for our nation's seniors. A typical 65 year old senior who retires moves from a private sector health care system—with a variety of quality, low cost options, including prescription drug coverage, and out-of-pocket protections—to a more limited, antiquated government program, without any limits on how much you are required to pay and no drug coverage. By updating Medicare, we not only ensure its continued existence past the current bankruptcy date 10 years from now, but we provide continuity of care, limited out of pocket expenses, and a mechanism for improving quality of care that you the patient receive.

As of October 8, forty-three of the current health care plans participating in Medicare announced their intention not to renew their Medicare contracts in 1999. Another 52 plans are reducing service areas. The net result is that 414,292 beneficiaries in 371 counties face the daunting task of securing alternative coverage provided by Medicare by January 1, 1999. Although this represents a small number of total beneficiaries, about one percent, those who have relied on their health plan to bridge the traditional gap between Medicare and Medigap now must either find another HMO (which means switching doctors in many cases), or move back to traditional fee-for-service Medicare which frequently means more personal expense. Should these individuals choose the traditional Medicare option, they will probably also scramble to find a supplementary Medigap policy, with likely higher premiums than their original Medigap policy and perhaps fewer benefits. 10% of the disadvantaged beneficiaries live in areas where no alternative Medicare HMO plans are offered. However, traditional Medicare remains an option for every beneficiary, and by law, seniors may return to that program.

In addition to the serious dilemmas this disruption has caused for those seniors, the extent to which HMOs pulled out sent shock waves through-

out the Federal government and health care industry. There are many profound questions provoked by this announcement. Why are insurance companies, hospital systems, and physicians who once applauded the Medicare+Choice program, now seemingly hesitant to participate? Are the pullouts the beginning of a trend which will ultimately undermine the Medicare+Choice program, which was specifically designed to restore Medicare's fiscal health and give seniors more options? To what extent are insurance companies and health plans over-reacting to natural "growing pains" associated with the implementation of new policies? What actions, if any, should HCFA and Congress take in response to what President Clinton characterized as HMO's breaking "their commitment to Medicare beneficiaries?" The President now vows to initiate "abandonment" legislation to punish those plans leaving and prevent a further exodus, but will he only succeed in discouraging new Medicare participating contracts? How can we avoid a short-sighted political response and create realistic incentives to provide seamless continuous coverage across geographic boundaries? How can we more adequately risk adjust payments to encourage health plans to accept, rather than avoid the most seriously ill? How can we incentivize health plans, who have little experience in caring for the chronically ill, to develop systems that appropriately address the very unique and specific needs of the older population?

The insurance industry is responding defensively to charges that they have "abandoned beneficiaries." They contend that in many regions Medicare's payments to HMOs fall far short of even covering the cost of care for beneficiaries. Furthermore, they argue at the very time a fledgling market structure most needs flexibility, the Administration has instead placed such rigid bureaucratic burdens that their hands are tied and they have no choice but to opt out of certain regions. Some believe the recent pullouts may simply reflect an effort on the part of insurance companies to bide time in the hopes that Congress will eventually ease requirements and make further progress with plan payments.

Seeing what has happened to their HMO competitors, provider-sponsored plans, or PSO's, have also been wary of Medicare+Choice contracts. Their uneasiness over the Administration's treatment of new participants, however, is secondary to their concern that private sector plans may boycott their facilities, viewing them as competing insurers, rather than providers. PSOs face an uphill battle with state regulatory agencies. They fear that other insurers will use them as a "dumping ground" for the expensive, chronically ill cases many insurers are tempted to avoid.

Both HMOs and PSOs complain loudly about the high administrative costs inherent in new Medicare contracts. By participating with the government,

they agree to submit large amounts of data, pay for extensive education campaigns for their enrollees, participate in government sponsored health fairs, and keep up with all the regulatory rules and regulations. Mayo Clinic estimates that the rules governing their participation in Medicare are spelled out in 586 pages of law and accompanied by 111,088 pages of regulation, guidance, and supporting documents. We in government should listen to this call for simplification, streamlining the regulatory burden, demanding accountability without trying to micro-manage.

The Health Care Financing Administration (HCFA), the government agency in charge of Medicare, is surprisingly optimistic and upbeat about the long term feasibility of Medicare+Choice. They urge skeptics to remember that the program is in its infancy. They point to data on Medicare HMO participation, which after a rocky start in the mid 1980s, now boasts one in six Medicare beneficiaries. They anticipate increased enrollment as more Medicare recipients have a greater understanding of their options and of how the opportunity to have a plan that meets specific needs meaning better care with greater security, not less. To date, full scale educational efforts have only occurred in five states. The beneficiary education program, which includes a booklet and hotline campaign, is slated for nationwide expansion by August, 1999. Most seniors are still unaware of their options in their regions. Many associate expanded choice with insecurity. Only education will change this. And that is a government responsibility.

HCFA also takes issue with the HMOs' assertion that it is underpaying managed care plans. They cite evidence obtained by the Physician Payment Review Commission in 1997 that Medicare has been paying \$2 billion a year too much to managed care plans. This observation led to HCFA's September decision to reject the insurance companies' proposal to resubmit their cost projections, to obtain additional reimbursement. HCFA did not intend to raise reimbursement levels, and feared that such an opportunity would allow plans to hike beneficiary premiums and decrease benefits. In addition, HCFA points to reluctance on the part of HMOs to pay their fair share of marketing and education costs. But, despite HCFA's point that, in the aggregate, they overpay HMOs, the agency governing Medicare may not be adequately considering the fact that within that average there may well be plans with a disproportionate number of older and sicker beneficiaries who are indeed underpaid. We must be committed to fair and just payment to these plans for the service we are asking them to deliver. Because of the tendency, at the federal level, to look at

averages, rather than individuals, and the reality of where people live, we must commit to address reasonable compensation in greater detail. The reality is: the reimbursement system for health care plans is surprisingly disassociated with the actual costs of delivering care. We must invest today in designing and implementing a realistic, scientifically based reimbursement structure.

A key component of the Balanced Budget Act was the move toward equity in payment across the country. Many HMOs were counting on receiving additional funds, following review by HCFA on the vast geographic disparities in payment. However, HCFA decided to postpone this adjustment until 2000, based on inadequate funds following an across-the-board 2% update. Thus, the so-called "blended rates" will not be applied until 2000. HCFA plans to incorporate risk adjustment in 2000 to reduce selective enrollment by plans and reduce total overpayments to managed care plans. HCFA has also recognized the adjustments necessary in implementing new plans, and has thus allowed leeway with quality improvement plans. There are some who feel that recent developments could have been avoided if HCFA acted more rapidly and more responsibly in carrying out Congress' mandate. Congressman Bilirakis, chairman of the House Commerce Subcommittee on Health and the Environment, stated that federal health officials were "guided by a rigid bureaucratic mentality which led to ossification rather than modernization of the Medicare program."

The decision of so many managed care plans to withdraw and downsize their Medicare contracts raises a red flag. We must first resolve the immediate coverage disruptions facing many of our elderly, and then we—this Congress, this President, HCFA, the insurance industry and seniors—must pledge to work together to make this program a success. Not only in the short term, but with an eye to the future. To survive, Medicare must change. Medicare needs the flexibility to respond to the changing health care environment, not only for our generation, but for our children and grandchildren. Now is the time for commitment and compassion, rather than overreaction or prematurely concluding failure of changes made to date. Knee jerk reactions, rather than thoughtfully moving to solve the problems, will only wreak further havoc on this evolving program. A commitment to education, and a more rational, responsive administrative and oversight structure must be pursued to meet future needs in Medicare and the care of our seniors. On a positive note, there are 48 pending applications of private plans wishing to enter the Medicare Market; 25 plans have requested to expand their current service areas. By working with HCFA, the insurance industry, hospitals, health care providers, and bene-

ficiaries, we can assure that the Medicare+Choice program will reach its full potential of better and more secure care for seniors and individuals with disabilities.

Also embedded within my remarks is a challenge to the Congress. Although we just passed, last year, the Balanced Budget Act that stretched the solvency of Medicare until 2008, it is clear that the Congress must promptly revisit Medicare once the National Bipartisan Commission on the Future of Medicare files its report by March 1, 1999. The dynamics of American health care, and the rapid changes in care for the nation's seniors, will not allow for maintenance of the status quo for the next decade. It is my hope that the current focus on Medicare+Choice serves as a catalyst for renewed discussion on the future of Medicare once we have the Medicare Commission's recommendations in hand. We will be remiss in our responsibility if we do not again next year continue our efforts to insure the solvency and improve the quality of the Medicare program—for our seniors, our parents and grandparents, today—and for all Americans—including our children—tomorrow.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. GRAMS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION AND THE FEDERAL GOVERNMENT

Mr. DORGAN. Mr. President, I would like to respond briefly to the comments made by the majority leader earlier this morning on the subject of education.

I have great respect for our Senate majority leader. He and I agree on some things and disagree on others, but I always have great respect for his opinion. But on the issue of schools and what kind of, if any, involvement the Federal Government shall have on this issue, I think we have a very substantial disagreement.

State and local governments, especially local school boards, will always run our school system, and that is how it should be. I don't suggest, and would never suggest, that we change that.

However, there are some things that we can and should aspire to as a nation

in dealing with education. One is to improve and invest in the infrastructure of our schools. I have spoken on the floor a good number of times about the condition of some of the schools in this country. I won't go into that at great length, but let me just describe a couple of them.

At the Cannon Ball Elementary School in Cannon Ball, ND, most of the children going to that school are Indian children. There are about 150 students who must share only two bathrooms and one water fountain. Part of the school has been condemned. Some of those students spend time in a room down in the older part of the school that can only be used during certain days of the week because the stench of leaking sewer gas frequently fills that room with noxious fumes that requires it to be evacuated.

They can't connect that school to the Internet because the wiring in that 90-year-old facility will not support technology. The young children who go through those schoolroom doors are not getting the best of what this country has to offer. And that school district simply does not have the funds on its own to repair that school or build a new one.

I challenge anyone in this Congress to go into that school building and say no to young Rosie in third grade who asked me, "Mr. Senator, can you buy us a new school?" I would challenge anyone to go into that school, and decide whether that is the kind of school you want your children to go to. Can you say that your children are entering a classroom that you are proud of? I don't think so.

That school district doesn't have the capacity to repair that school on its own. It has a very small tax base that will not support a bonding initiative for building a new school. There are schools like that—the Cannon Ball Elementary School, or the Ojibwa Indian School on the Turtle Mountain Reservation—all over this country, and we ought to do something about it. We can do something about it we enacted a number of proposals on school construction. That ought to be a priority for this Senate. So, too, ought this Senate have as its priority trying to help State and local governments and school districts reduce class size. It makes a difference.

I have two children in public schools, in grade school. One goes to school in a trailer, a portable classroom. The other is in a class with 28 or 29 students. And it has almost always been that way. Would it be better if they were in schools with class sizes of 15, 16 or 18 students? Of course, it would. Does a teacher have more time to devote to each student with smaller classrooms? Of course. Of course. Can we do something about that? Only if this U.S. Senate determines that education is a priority. Only if we decide to do something about it. I am not suggesting that we decide that we ought to run the local school systems; that is not